ORDINANCES

ISSUED

IN THE YEARS **1850** AND **1852**

BY THE

AUTHORITIES IN CHINA.

Presented to both Houses of Parliament by Command of Her Majesty.
June 25, 1852.

LONDON:
PRINTED BY HARRISON AND SON.

CONTENTS.

No.			Page
1.	Ordinance to explain Ordinance No. 9 of 1845	January 8, 1850	1
2.	Ordinance to regulate the Jurisdiction of Magistrates, &c., over offences committed without the Colony	March 20, ——	2
3.	Ordinance for investing Her Majesty's Consuls with the powers of Justices of the Peace	January 13, 1852	4
4.	Ordinance to amend Ordinance No. 5 of 1844	January 27, ——	5

Digitized with financial assistance from

Ms. Rowena T Robinson

on 29 March, 2019

Ordinances issued in the Years 1850 and 1852 by the Authorities in China.

No. 1.

An Ordinance to explain Ordinance No. 9 of 1845.

An Ordinance for Her Majesty's Subjects within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the Coast of China.

Anno Decimo Tertio Victoriæ Reginæ.—No. 1 of 1850.

BY his Excellency Samuel George Bonham, Esquire, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-chief of the Colony of Hong-Kong and its dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British subjects in China, with the advice of the Legislative Council of Hong-Kong.

Title.

An Ordinance to explain the Colonial Ordinance No. 9 of 1845, intituled "An Ordinance to invest the Supreme Court of Hong-Kong with a summary jurisdiction in certain cases;" and also the Colonial Ordinance No. 3 of 1849, passed to amend the said Ordinance No. 9 of 1845; and to amend and explain the Ordinance No. 3 of 1847, intituled "An Ordinance to authorize Her Majesty's Consular Officers to adjudicate in civil actions;" and also to make provision for certain causes of civil action or complaint, originating beyond the limits of the Colony of Hong-Kong, for or against any such officers.

[January 8, 1850.]

Preamble.

WHEREAS doubts have arisen as to whether the jurisdiction given to or conferred on the said Consular officers by the first section of the said Ordinance No. 3 of 1847, be concurrent with or exclusive of the summary jurisdiction of the Supreme Court of Hong-Kong given or conferred by the said Colonial Ordinance No. 9 of 1845, and by the said Colonial Ordinance No. 3 of 1849: And whereas it is expedient to make provision for cases in which the said Consular Officers may become parties either complainant or defendant in certain civil cases:

The summary jurisdiction of the Supreme Court to be exercised only within the Colony of Hong-Kong and its dependencies.

I. Be it enacted and ordained by his Excellency the Governor of Hong-Kong and Chief Superintendent of the Trade of Her Majesty's subjects in China, with the advice of the Legislative Council of Hong-Kong, for the removal of such doubts, that the summary jurisdiction with which the said Supreme Court of Hong-Kong is invested in certain cases under and by virtue of the said Ordinances No. 9 of 1845 and No. 3 of 1849, and the powers and authorities thereby given, shall not extend or be exercised or exercisable by the said Supreme Court beyond the limits of the Colony of Hong-Kong and its dependencies, nor to nor over any cause of action or complaint whatsoever, originating beyond the said limits, save and except and unless the parties complainant and defendant shall, at the date of the service of the summons in any action or suit, be all or both of them actually resident within the Colony of Hong-Kong or its dependencies: Provided always that nothing herein contained shall prevent, or be construed to prevent, all orders and decrees made by the Supreme Court under the aforesaid Ordinances No. 9 of 1845 and No. 3 of 1849, as hereby explained, from being carried into execution in manner in the said last-mentioned Ordinances provided, in any place within the jurisdiction of the said Supreme Court where the defendant, his goods, chattels, or effects, lands, tenements or hereditaments, may be found or met with: Provided also

that nothing herein contained shall extend or be construed to extend to interfere with, limit, or restrict the jurisdiction of the Supreme Court of Hong-Kong, other than the summary jurisdiction with which that Court is invested by the aforesaid Ordinances No. 9 of 1845 and No. 3 of 1849, and other than as regards such jurisdiction over Consuls and Consular Officers, as is hereafter provided for.

Provision for the trial of all suits and actions, wherein Her Majesty's Consuls or other Consular Officers may be parties, plaintiff or defendant, the cause of action having originated beyond the limits of the colony.

II. And be it further enacted and ordained, That whenever any cause of civil action or complaint whatsoever shall originate beyond the limits of the Colony of Hong-Kong and its dependencies, for or against any such Consul in China, or any Vice-Consul while acting as Consul aforesaid, or any Consular Agent acting as such, then and in every such case it shall and may be lawful to and for the party complainant or defendant, or any or either of them, to prefer a petition in the matter to Her Majesty's Chief Superintendent of Trade in China, being also Governor of the Colony of Hong-Kong, who shall thereupon appoint some person or persons to try and adjudicate on the matter of the said petition, and the person or persons so appointed shall try and adjudicate on the matter, whatever may be the amount in dispute therein in a summary manner, entertaining in support of or against any such petition *vivâ voce* evidence on oath or sworn depositions, including or not, at his or their discretion, the evidence or depositions of the plaintiff or plaintiffs, defendant or defendants, or any or either of them, in the same manner as if such person or persons were acting as Consul under the provision of the said Consular Ordinance No. 3 of 1847: Provided always, that if the said Chief Superintendent shall deem the matter in question more fitting to be tried in the Supreme Court of Hong-Kong, it shall and may be lawful for the said Chief Superintendent to remit the party complainant or defendant and all the proceedings in the matter to the said Supreme Court; in which case the said Court shall have power and jurisdiction to entertain and adjudicate upon the matters and proceedings so remitted, in a summary manner, provided the debt or damages or cause of action or complaint shall not exceed the sum of five hundred dollars, and shall and may have and exercise over all and every such matters and proceedings all and every the jurisdiction, powers, and authorities given to and vested in the said Supreme Court under and by virtue of the said Ordinances No. 9 of 1845 and No. 3 of 1849, anything herein contained to the contrary notwithstanding.

(Signed) S. G. BONHAM.

Passed the Legislative Council of Hong-Kong,
this 8th day of January, 1850.
L. D'Almada e Castro,
Clerk of Councils.

No. 2.

Ordinance to regulate the Jurisdiction of Magistrates, &c.

An Ordinance for Her Majesty's Subjects within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the Coast of China.

Anno Decimo Tertio Victoriæ Reginæ.—No. 2 of 1850.

BY his Excellency Samuel George Bonham, Esquire, Companion of the Most Honourable Order of the Bath, Governor and Commander-in-chief of the Colony of Hong-Kong and its dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British subjects in China, with the advice of the Legislative Council of Hong-Kong.

Title.

An Ordinance to regulate the jurisdiction of Magistrates and Courts of Sessions in Hong-Kong, over offences committed without the colony by British subjects; and for the better carrying into effect the Treaties between Great Britain and China.

[March 20, 1850.]

Preamble.

WHEREAS by Ordinance No. 1 of 1844, intituled "An Ordinance to render Her Majesty's subjects within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles

from the Coast of China, subject in all matters to the Law of England, and to extend the jurisdiction of the Courts of Justice at Hong-Kong over the same," it is provided that the Courts of Justice at Hong-Kong shall have the same power, jurisdiction, and authority in all matters whatsoever, whether civil or criminal, over Her Majesty's subjects within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the coast of China, that the said Courts have or shall have over Her Majesty's subjects actually resident at Hong-Kong: And whereas it is by the said Ordinance further enacted and ordained, that in case of any trespass, wrong, or crime whatsoever charged to have been done by any of Her Majesty's subjects upon the person or property of any person or persons whatsoever within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the coast of China, it shall not be lawful for the person or persons charged therewith to object to the locality of the jurisdiction of the said Courts at Hong-Kong, but he or they shall be indicted, tried, convicted, and punished, or acquitted or demeaned, in all respects as if the offence wherewith he or they may be charged had been committed within the Colony of Hong-Kong upon the body or property of any person or persons within the peace of our Lady the Queen.

Consular Ordinance No. 1 of 1844 to be held to apply to Magistrates' Courts.

I. Be it therefore enacted and ordained by his Excellency the Governor of Hong-Kong and Chief Superintendent of the Trade of Her Majesty's subjects in China, with the advice of the Legislative Council of Hong-Kong, That the said Ordinance in part above recited shall be held to apply to, and is hereby extended to, all courts presided over by any magistrate or magistrates, and to all courts of session now established or hereafter to be established within the Colony of Hong-Kong: Provided always that it shall not be lawful for the said courts to have cognizance of any case, civil or criminal, of which they respectively would not have cognizance were the case to arise and be committed within the limits of the said colony.

Crimes and Misdemeanours committed by British subjects without the colony, to be dealt with by Magistrates in like manner as if committed within the colony.

II. And be it further enacted and ordained, That whenever any British subject shall be charged with having committed any crime or misdemeanour within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the coast of China, it shall and may be lawful for any magistrate within the colony to do all and every act or acts respecting the apprehension of the accused, or respecting the summoning of witnesses or otherwise, that may be necessary for the investigation, commitment, and trial of the offender, as if such crime or misdemeanour had been committed within the limits of the said colony.

Magistrates' Warrants or Summonses may be executed or served on British subjects in China or within 100 miles of the coast.

III. And be it further enacted and ordained, That for the purpose of proceeding in any such case, or in the investigation of any such crime or misdemeanour, in which the defendant or the witnesses shall be at the time without the said colony, it shall be lawful for such Court or magistrate as aforesaid to issue all necessary summonses, or warrants of arrest or of distress for the appearance of the defendant or witnesses, or for execution on any goods or chattels then being within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the coast of China, in like manner as if such defendant or witnesses or goods or chattels were at the time within the said colony, and that the said defendant and witnesses shall be liable to proceedings and penalties for disobedience to or obstruction of the said summonses, or warrants, in the same manner as if such disobedience or obstruction had occurred within the said colony.

Magistrates may refuse to proceed in cases more conveniently or properly cognizable by the Supreme or Consular Court, unless Chief Superintendent of Trade order to the contrary.

IV. And be it further enacted and ordained, That, should such Court or magistrate as aforesaid be of opinion that any such case, or crime or misdemeanour would be more conveniently or properly tried or investigated by the Supreme Court or a Consular Court having jurisdiction thereover, it shall be lawful for such Court or magistrate to refuse to proceed therein, and to refer the complainant to such Supreme or Consular Court: Provided always that notwithstanding such refusal it shall be lawful for the Governor of Hong-Kong, being the Chief Superintendent of Trade, to direct such Court or magistrate to

proceed therein, and such Court or magistrate shall thereupon proceed therein accordingly as if such refusal had not been made.

Magistrates of Hong-Kong on requisition of the Governor may enforce the observance of the Treaties by British subjects, by detaining the offender and reporting.

V. And be it further enacted and ordained, That on the requisition of the Governor of Hong-Kong, being the Chief Superintendent of the Trade of British subjects in China, any magistrate of Hong-Kong shall have and exercise the same power of carrying into effect both within and without the colony a certain Consular Ordinance, numbered 5 of 1844, and intituled "An Ordinance to carry into effect the Treaties between Great Britain and China, and to indemnify Her Majesty's Consuls and all other persons in China who may hitherto have assisted therein," as is now or shall hereafter be possessed by the said Consuls within their respective districts: Provided that no such magistrate shall have power to punish any breach of the said Treaties, but he shall record the testimony of the witnesses and the statements of the accused person, and remand such accused person to prison or admit such person to bail, and shall transmit to the said Governor, being the Chief Superintendent of Trade as aforesaid, the minutes of the investigation, and all documents in his possession connected with the charge against the accused; and it shall then be lawful for the said Governor to discharge or punish the accused, and to take such order in the case as it would have been lawful for him to take had the investigation been held before himself personally.

Power to Police Officers to arrest for offences committed within the dominions of the Emperor of China or 100 miles of the coast.

VI. And be it further enacted and ordained, That for the purposes of arresting and conveying before a magistrate any person being a British subject charged with having committed any offence within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the coast of China, it shall and may be lawful for any officer of police or constable to arrest such person in the same manner in every respect as if such person had committed an offence within the aforesaid Colony of Hong-Kong.

Protection to Magistrate, Jailer, or Officer of Police, acting under authority of Chief Superintendent of Trade, or Governor of Hong-Kong.

VII. And be it further enacted and ordained, That if any action be brought against any magistrate, jailer, officer of police, or any other person, for anything done in obedience to any warrant or order issued by the Chief Superintendent of Trade or Governor of Hong-Kong, the proof of such warrant or order shall be a sufficient answer to such action, and the defendant or defendants on such proof as aforesaid shall be entitled to a verdict or judgment in his or their favour, and shall also be entitled to his or their costs as between attorney and client.

Interpretation clause.

VIII. And be it further enacted and ordained, That in the construction of this Ordinance, the term Magistrate shall be held to apply to each and all Magistrates of Police and Justices of the Peace for the Colony of Hong-Kong.

(Signed) S. G. BONHAM.

Passed the Legislative Council of Hong-Kong,
this 20th day of March, 1850.

L. D'ALMADA E CASTRO,
Clerk of Councils.

No. 3.

Ordinance for investing Her Majesty's Consuls with powers of Justices of the Peace.

An Ordinance for Her Majesty's Subjects within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the Coast of China.

Anno Decimo Quinto Victoriæ Reginæ.—No. 1 of 1852.

BY his Excellency Sir Samuel George Bonham, Knight Commander of the Most Honourable Order of the Bath, Governor and Commander-in-chief of the Colony of Hong-Kong and its dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British subjects in China, with the advice of the Legislative Council of Hong-Kong.

An Ordinance for investing Her Majesty's Consuls in China with the Powers of Justices of the Peace, so far as may be requisite for enforcing the due observance of certain provisions of two Acts passed in the Imperial Parliament of Great Britain and Ireland, namely, "The General Merchant Seamen's Act," and "The Mercantile Marine Act, 1850." Title.

[January 13, 1852.]

WHEREAS it is deemed expedient that Her Majesty's Consular Officers within the dominions of the Emperor of China should have power to enforce the due observance of the provisions aforesaid: Preamble.

I. Be it therefore enacted and ordained by his Excellency the Governor of Hong-Kong and Chief Superintendent of the Trade of Her Majesty's subjects in China, with the advice of the Legislative Council of Hong-Kong, That every British Consul, Vice-Consul, and Consular Agent, and all persons duly appointed to act temporarily in any such capacity, shall be and are hereby authorized to exercise within their respective Consular jurisdiction any of the powers which are by either of the said Imperial Acts committed to the justices of the peace in and for any of Her Majesty's colonies; and it is hereby declared that in any case where two or more such justices are required to act jointly, one of the said Consular Officers as aforesaid shall be and is hereby authorized to act alone. Consular Officers within their respective jurisdictions empowered to carry out such provisions of the "Merchant Seamen's Act, and Mercantile Marine Act 1850," as are by the said Acts entrusted to Colonial Justices.

II. And be it further enacted and ordained, That no such Consular Officer as aforesaid shall be subject to any suit or proceeding whatever, for any act or acts heretofore done by him in his official capacity with the intent of carrying out or enforcing any provision or provisions of either of the aforesaid Acts. Indemnity clause.

(Signed) S. G. BONHAM.

Passed the Legislative Council of Hong-Kong,
this 13th day of January, 1852.
L. D'ALMADA E CASTRO,
Clerk of Councils.

No. 4.

Ordinance to amend Ordinance No. 5 of 1844.

An Ordinance for Her Majesty's Subjects within the dominions of the Emperor of China, or within any ship or vessel at a distance of not more than one hundred miles from the Coast of China.

Anno Decimo Quinto Victoriæ Reginæ.—No. 2 of 1852.

BY his Excellency Sir Samuel George Bonham, Knight Commander of the Most Honourable Order of the Bath, Governor and Commander-in-chief of the Colony of Hong-Kong and its dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British subjects in China, with the advice of the Legislative Council of Hong-Kong.

An Ordinance to amend Ordinance No. 5 of 1844, intituled "An Ordinance to carry into effect the Treaties between Great Britain and China, and to indemnify Her Majesty's Consuls and all other persons in China who may have hitherto assisted therein,"—and to limit the operation of Ordinance No. 7 of 1844, intituled "An Ordinance for the better Administration of Justice in the Consular Courts, and to establish a Registration of British Subjects within the dominions of the Emperor of China." Title.

[January 27, 1852.]

WHEREAS it has been decided by the Supreme Court of Hong-Kong that it is necessary that Her Majesty's Consular Officers have assessors in pursuance of the third section of Ordinance No. 7 of 1844, when imposing any penalty exceeding 100 dollars, although the same should be so imposed for a breach of the Treaties between Great Britain and China under the Ordinance No. 5 of 1844, and it is expedient to declare more fully the object and meaning of the Preamble.

Digitized with financial assistance from
Ms. Rowena T Robinson
on 29 March, 2019

said Ordinance No. 5 of 1844: And whereas it is further expedient that the decisions of the said Consular Officers shall not be removable by writ of certiorari into the Supreme Court of Hong-Kong as they are now liable to be removed contrary to the spirit and intent of the provisions of the said Treaties:

Ordinance No. 7 of 1844 not to control No. 5 of 1844.

I. Be it therefore enacted and ordained by his Excellency the Governor of Hong-Kong and Chief Superintendent of the Trade of Her Majesty's subjects in China, with the advice of the Legislative Council of Hong-Kong, That from and after the passing of this Ordinance nothing in the said Ordinance No. 7 of 1844 contained shall be held to abridge or in any wise limit the power of jurisdiction conferred on any such Consular Officers by the said Ordinance No. 5 of 1844.

Proceedings for breach of Treaty under Ordinance No. 5 of 1844 not subject to certiorari or appeal to Supreme Court.

II. And be it further enacted and ordained, That no proceedings pending or had or hereafter to be instituted or pending under the said Ordinance No. 5 of 1844 for breach of the said Treaties between Great Britain and China, shall be removable by certiorari into the Supreme Court of the Colony of Hong-Kong, —nor be made the subject of appeal before the said Court; anything contained in the said Ordinance, or otherwise, notwithstanding.

Power to Her Majesty's Chief Superintendent of Trade to mitigate or remit penalties under such convictions.

III. And be it further enacted and ordained, That if any person or persons be convicted of a breach of any such Treaty by any Consular Officer, he or they may require the Consular Officer presiding at the time to remit a certified copy of the evidence and proceedings had at such trial, as also such further statements therein as the convicted person or persons may be desirous to make, to Her Majesty's Chief Superintendent of Trade, to whom it shall be then lawful, by warrant under his hand and seal addressed to the Consular Officer by whom the case was tried, to mitigate or remit altogether the penalty or punishment awarded to the party or parties convicted, and such Consular Officer shall give immediate effect to the injunction of any such warrant.

This Ordinance not to affect the provisions contained in Section V of Ordinance No. 5 of 1844.

IV. And be it further enacted and ordained, That nothing herein contained shall be held to interfere with, vary, or alter the provisions contained in the fifth section of the said Ordinance No. 5 of 1844.

(Signed) S. G. BONHAM.

Passed the Legislative Council of Hong-Kong,
this 27th day of January, 1852.

L. D'ALMADA E CASTRO,
Clerk of Councils.